Assembly Bill No. 1672

CHAPTER 892

An act to amend Sections 6400, 6401, 6401.6, 6405, 6411, 22350, 22351, 22351.5, 22353, and 22357 of the Business and Professions Code, to amend Sections 995.710, 1260.250, and 2025 of the Code of Civil Procedure, to amend Section 68511.3 of the Government Code, to amend Section 45014 of the Public Resources Code, and to amend Section 319.1 of the Welfare and Institutions Code, relating to civil actions.

[Approved by Governor October 9, 1999. Filed with Secretary of State October 10, 1999.]

LEGISLATIVE COUNSEL'S DIGEST

AB 1672, Committee on Judiciary. Civil actions: eminent domain: waste management.

(1) Existing law provides, until January 1, 2003, for the registration by the county clerk of legal document assistants and unlawful detainer assistants, as specified; it also provides for the registration by the county clerk of process servers, as specified.

This bill would revise the exemptions from the registration requirement for legal document assistants, and make clarifying changes; the bill would require an application for a certificate of registration by a partnership or corporation to be accompanied by a $25,000 bond executed by a corporate surety qualified to do business in this state; however, the bill would limit the total aggregate liability on the bond to $25,000, and would require an application for a certificate of registration by a person employed by a partnership or corporation to be accompanied by a $25,000 bond only when the partnership or corporation has not posted the bond, as specified; the bill would create an exemption from the registration of felons as process servers with respect to felons who have been granted a certificate of rehabilitation, expungement, or pardon, and make conforming changes. This bill would also revise the notification and fingerprint card requirements for registration of process servers, and allow a registrant to deposit cash or a money order in lieu of a surety bond. The bill would also make clarifying changes.

(2) Existing law generally prohibits a cash or similar deposit in lieu of a surety bond after January 1, 1999.

This bill would limit that prohibition to filings with the Secretary of State.

(3) The existing eminent domain law requires a court, in an eminent domain proceeding, to give the tax collector the legal description of the property sought to be taken and direct the tax

collector to certify to the court specified information regarding the property.

This bill would provide that the court in a county where both the auditor and tax collector are elected officials may select either the auditor or tax collector to perform that certification.

(4) Existing law limits taking multiple depositions of the same person, except as specified.

This bill would revise that exception.

(5) Existing law requires litigants who apply to a court to proceed in forma pauperis to provide identification to verify the applicants receipt of public assistance.

This bill would expand the means of identification for these purposes.

(6) Existing law, known as the California Integrated Waste Management Act of 1989, authorizes the California Integrated Waste Management Board, along with local enforcement agencies, to carry out specified powers and duties relating to the management of solid waste. The act authorizes the administrative imposition of civil penalties for violations of the act, and provides that any attorney authorized to act on behalf of the local enforcement agency or the board may petition the superior court to impose, assess, and recover civil penalties under the act.

This bill would instead provide that an attorney authorized to act on behalf of the local enforcement agency or the board may apply, to the clerk of the appropriate court in the county in which the civil penalty was imposed, for a judgment to collect the penalty, as specified. The bill would also require the recovery of unpaid filing fees prior to the recovery of any portion of a civil penalty.

(7) Existing law requires the juvenile court to notify the director of the county mental health department of the county in which a minor resides when the court (1) finds the minor to be within the jurisdiction of the court on the basis of abuse or neglect and (2) believes the minor may need specialized mental health treatment.

This bill would make a technical change to that provision.

(8) By imposing additional duties upon local officials, this bill would create a state-mandated local program.

(9) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement, including the creation of a State Mandates Claims Fund to pay the costs of mandates that do not exceed $1,000,000 statewide and other procedures for claims whose statewide costs exceed $1,000,000.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

The people of the State of California do enact as follows:

SECTION 1. Section 6400 of the Business and Professions Code, as added by Section 3 of Chapter 1079 of the Statutes of 1998, is amended to read:

6400. (a) ''Unlawful detainer assistant'' means any individual who for compensation renders assistance or advice in the prosecution or defense of an unlawful detainer claim or action, including any bankruptcy petition that may affect the unlawful detainer claim or action.

(b) ''Unlawful detainer claim'' means a proceeding, filing, or action affecting rights or liabilities of any person that arises under Chapter 4 (commencing with Section 1159) of Title 3 of Part 3 of the Code of Civil Procedure and that contemplates an adjudication by a court.

(c) ''Legal document assistant'' means:

(1) Any person who is not exempted under Section 6401 and who provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter, or who holds himself or herself out as someone who offers that service or has that authority. This paragraph shall not apply to any individual whose assistance consists merely of secretarial or receptionist services.

(2) A corporation, partnership, association, or other entity that employs or contracts with any person not exempted under Section 6401 who, as part of his or her responsibilities, provides, or assists in providing, or offers to provide, or offers to assist in providing, for compensation, any self-help service to a member of the public who is representing himself or herself in a legal matter or holds himself or herself out as someone who offers that service or has that authority. This paragraph shall not apply to an individual whose assistance consists merely of secretarial or receptionist services.

(d) ''Self-help service'' means all of the following:

(1) Completing legal documents in a ministerial manner, selected by a person who is representing himself or herself in a legal matter, by typing or otherwise completing the documents at the person's specific direction.

(2) Providing general published factual information that has been written or approved by an attorney, pertaining to legal procedures, rights, or obligations to a person who is representing himself or herself in a legal matter, to assist the person in representing himself or herself. This service in and of itself, shall not require registration as a legal document assistant.

(3) Making published legal documents available to a person who is representing himself or herself in a legal matter.

(4) Filing and serving legal forms and documents at the specific direction of a person who is representing himself or herself in a legal matter.

(e) ''Compensation'' means money, property, or anything else of value.

(f) A legal document assistant, including any legal document assistant employed by a partnership or corporation, shall not provide any self-help service for compensation after January 1, 2000, unless the legal document assistant is registered in the county in which the services are being provided.

(g) A legal document assistant shall not provide any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by paragraph (3) of subdivision (d).

(h) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 2. Section 6401 of the Business and Professions Code, as amended by Section 5 of Chapter 1079 of the Statutes of 1998, is amended to read:

6401. This chapter does not apply to any person engaged in any of the following occupations, provided that the person does not also perform the duties of a legal document assistant in addition to those occupations:

(a) Any government employee who is acting in the course of his or her employment.

(b) A member of the State Bar of California, or his or her employee, paralegal, or agent, or an independent contractor while acting on behalf of a member of the State Bar.

(c) Any employee of a nonprofit, tax-exempt corporation who either assists clients free of charge or is supervised by a member of the State Bar of California who has malpractice insurance.

(d) A licensed real estate broker or licensed real estate salesperson, as defined in Chapter 3 (commencing with Section 10130) of Part 1 of Division 4, who acts pursuant to subdivision (b) of Section 10131 on an unlawful detainer claim as defined in subdivision (b) of Section 6400, and who is a party to the unlawful detainer action.

(e) An immigration consultant, as defined in Chapter 19.5 (commencing with Section 22441) of Division 8.

(f) A person registered as a process server under Chapter 16 (commencing with Section 22350) or a person registered as a

professional photocopier under Chapter 20 (commencing with Section 22450) of Division 8.

(g) A person who provides services relative to the preparation of security instruments or conveyance documents as an integral part of the provision of title or escrow service.

(h) A person who provides services that are regulated by federal law.

(i) A person who is employed by, and provides services to, a supervised financial institution, holding company, subsidiary or affiliate.

(j) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 3. Section 6401.6 of the Business and Professions Code is amended to read:

6401.6. A legal document assistant shall not provide service to a client who requires assistance that exceeds the definition of self-help service in subdivision (d) of Section 6400, and shall inform the client that the client requires the services of an attorney.

This section shall remain in effect only until January 1, 2003, and as of that date is repealed, unless a later enacted statute, that is enacted before January 1, 2003, deletes or extends that date.

SEC. 4. Section 6405 of the Business and Professions Code is amended to read:

6405. (a) (1) An application for a certificate of registration by an individual shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000).

(2) An application for a certificate of registration by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) executed by a corporate surety qualified to do business in this state and conditioned upon compliance with this chapter. The total aggregate liability on the bond shall be limited to twenty-five thousand dollars ($25,000). An application for a certificate of registration by a person employed by a partnership or corporation shall be accompanied by a bond of twenty-five thousand dollars ($25,000) only when the partnership or corporation has not posted a bond of twenty-five thousand dollars ($25,000) as required by this subdivision.

(3) The bond may be terminated pursuant to Section 995.440 of, and Article 13 (commencing with Section 996.310) of Chapter 2 of Title 14 of Part 2 of, the Code of Civil Procedure.

(b) The county clerk shall, upon filing of the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registrant. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars ($7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

(e) In lieu of the bond required by subdivision (a), a registrant may deposit twenty-five thousand dollars ($25,000) in cash with the county clerk.

(f) If the certificate is revoked, the bond or cash deposit shall be returned to the bonding party or depositor subject to subdivision (g) and the right of a person to recover against the bond or cash deposit under Section 6412.

(g) The county clerk may retain a cash deposit until the expiration of three years from the date the registrant has ceased to do business, or three years from the expiration or revocation date of the registration, in order to ensure there are no outstanding claims against the deposit. A judge of a municipal or superior court may order the return of the deposit prior to the expiration of three years upon evidence satisfactory to the judge that there are no outstanding claims against the deposit.

SEC. 5. Section 6411 of the Business and Professions Code, as amended by Section 21 of Chapter 1079 of the Statutes of 1998, is amended to read:

6411. It is unlawful for any person engaged in the business or acting in the capacity of a legal document assistant or unlawful detainer assistant to do any of the following:

(a) Make false or misleading statements to the consumer concerning the subject matter, legal issues, or self-help service being provided by the legal document assistant or unlawful detainer assistant.

(b) Make any guarantee or promise to a client or prospective client, unless the guarantee or promise is in writing and the legal document assistant or unlawful detainer assistant has a reasonable factual basis for making the guarantee or promise.

(c) Make any statement that the legal document assistant or unlawful detainer assistant can or will obtain favors or has special influence with a court, or a state or federal agency.

(d) Provide assistance or advice which constitutes the unlawful practice of law pursuant to Section 6125, 6126, or 6127.

(e) Engage in the unauthorized practice of law, including, but not limited to, giving any kind of advice, explanation, opinion, or recommendation to a consumer about possible legal rights, remedies, defenses, options, selection of forms, or strategies. A legal document assistant shall complete documents only in the manner prescribed by subdivision (d) of Section 6400.

(f) This section shall remain in effect only until January 1, 2003, or the date the director suspends the requirements of this chapter applicable to legal document assistants pursuant to Section 6416, whichever first occurs, and as of that date is repealed, unless a later enacted statute, that is enacted before that date, deletes or extends that date.

SEC. 6. Section 22350 of the Business and Professions Code is amended to read:

22350. (a) Any natural person who makes more than 10 services of process within this state during one calendar year, for specific compensation or in expectation of specific compensation, where such compensation is directly attributable to the service of process, shall file and maintain a verified certificate of registration as a process server with the county clerk of the county in which he or she resides or has his or her principal place of business. Any corporation or partnership that derives or expects to derive compensation from service of process within this state shall also file and maintain a verified certificate of registration as a process server with the county clerk of the county in which the corporation or partnership has its principal place of business.

(b) This chapter shall not apply to any of the following:

(1) Any sheriff, marshal, or government employee who is acting within the course and scope of his or her employment.

(2) An attorney or his or her employees.

(3) Any person who is specially appointed by a court to serve its process.

(4) A licensed private investigator or his or her employees.

(5) A professional photocopier registered under Section 22450, or an employee thereof, whose only service of process relates to subpoenas for the production of records, which subpoenas specify that the records be copied by that registered professional photocopier.

SEC. 7. Section 22351 of the Business and Professions Code is amended to read:

22351. (a) The certificate of registration of a registrant who is a natural person shall contain the following:

(1) The name, age, address, and telephone number of the registrant.

(2) A statement, signed by the registrant under penalty of perjury, that the registrant has not been convicted of a felony; or, if the registrant has been convicted of a felony, a copy of a certificate of rehabilitation, expungement, or pardon.

(3) A statement that the registrant has been a resident of this state for a period of one year immediately preceding the filing of the certificate.

(4) A statement that the registrant will perform his or her duties as a process server in compliance with the provisions of law governing the service of process in this state.

(b) The certificate of registration of a registrant who is a partnership or corporation shall contain the following:

(1) The names, ages, addresses, and telephone numbers of the general partners or officers.

(2) A statement, signed by the general partners or officers under penalty of perjury, that the general partners or officers have not been convicted of a felony.

(3) A statement that the partnership or corporation has been organized and existing continuously for a period of one year immediately preceding the filing of the certificate or a responsible managing employee, partner, or officer has been previously registered under this chapter.

(4) A statement that the partnership or corporation will perform its duties as a process server in compliance with the provisions of law governing the service of process in this state.

SEC. 8. Section 22351.5 of the Business and Professions Code is amended to read:

22351.5. (a) At the time of filing the initial certificate of registration, the registrant shall also submit two completed fingerprint cards, for submission to the Department of Justice and the Federal Bureau of Investigation, in order to verify that the registrant has not been convicted of a felony. The clerk shall utilize the Subsequent Arrest Notification Contract provided by the Department of Justice for notifications subsequent to the initial certificate of registration. If, however, the clerk was not under contract with the Department of Justice at the time the initial certificate was filed, registrants shall be required to submit new fingerprint cards at the time of renewal until the notification contract is in place.

(b) If, after processing the completed fingerprint cards, the clerk is advised that the registrant has been convicted of a felony, the presiding judge of the superior court of the county in which the certificate of registration is maintained is authorized to review the criminal record and, unless the registrant is able to produce a copy of a certificate of rehabilitation, expungement, or pardon, as specified in paragraph (2) of subdivision (a) of Section 22351, notify the registrant that the registration is revoked. An order to show cause for

contempt may be issued and served upon any person who fails to surrender a registered process server identification card after a notice of revocation.

SEC. 9. Section 22353 of the Business and Professions Code is amended to read:

22353. (a) A certificate of registration shall be accompanied by a bond of two thousand dollars ($2,000) which is executed by an admitted surety insurer and conditioned upon compliance with the provisions of this chapter and all laws governing the service of process in this state. The total aggregate liability on the bond is limited to two thousand dollars ($2,000). As an alternative to the bond, the registrant may deposit with the clerk, cash or money order in the amount of two thousand dollars ($2,000).

(b) The county clerk shall, upon filing the bond, deliver the bond forthwith to the county recorder for recording. The recording fee specified in Section 27361 of the Government Code shall be paid by the registered professional process server. The fee may be paid to the county clerk, who shall transmit it to the recorder.

(c) The fee for filing, canceling, revoking, or withdrawing the bond is seven dollars ($7).

(d) The county recorder shall record the bond and any notice of cancellation, revocation, or withdrawal of the bond, and shall thereafter mail the instrument, unless specified to the contrary, to the person named in the instrument and, if no person is named, to the party leaving it for recording. The recording fee specified in Section 27361 of the Government Code for the notice of cancellation, revocation, or withdrawal of the bond shall be paid to the county clerk, who shall transmit it to the county recorder.

SEC. 10. Section 22357 of the Business and Professions Code is amended to read:

22357. (a) Any person who recovers damages in any action or proceeding for injuries caused by a service of process which was made by a registrant and did not comply with the provisions of law governing the service of process in this state may recover the amount of the damages from the bond required by Section 22353.

(b) Whenever there has been a recovery against a bond under subdivision (a), the registrant shall file a new bond or cash deposit within 30 days to reinstate the bond or cash deposit to the amount required by Section 22353. If the registrant does not file the bond within 30 days, the certificate of registration shall be revoked and the remainder of the bond forfeited to the county treasury.

SEC. 11. Section 995.710 of the Code of Civil Procedure is amended to read:

995.710. (a) Except as provided in subdivision (e) or to the extent the statute providing for a bond precludes a deposit in lieu of bond or limits the form of deposit, the principal may instead of giving a bond, deposit with the officer any of the following:

(1) Lawful money of the United States. The money shall be maintained by the officer in an interest-bearing trust account.

(2) Bearer bonds or bearer notes of the United States or the State of California.

(3) Certificates of deposit payable to the officer, not exceeding the federally insured amount, issued by banks or savings associations authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(4) Savings accounts assigned to the officer, not exceeding the federally insured amount, together with evidence of the deposit in the savings accounts with banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(5) Investment certificates or share accounts assigned to the officer, not exceeding the federally insured amount, issued by savings associations authorized to do business in this state and insured by the Federal Deposit Insurance Corporation.

(6) Certificates for funds or share accounts assigned to the officer, not exceeding the guaranteed amount, issued by a credit union, as defined in Section 14002 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Financial Institutions.

(b) The deposit shall be in an amount or have a face value, or in the case of bearer bonds or bearer notes have a market value, equal to or in excess of the amount that would be required to be secured by the bond if the bond were given by an admitted surety insurer. Notwithstanding any other provision of this chapter, in the case of a deposit of bearer bonds or bearer notes other than in an action or proceeding, the officer may, in the officer's discretion, require that the amount of the deposit be determined not by the market value of the bonds or notes but by a formula based on the principal amount of the bonds or notes.

(c) The deposit shall be accompanied by an agreement executed by the principal authorizing the officer to collect, sell, or otherwise apply the deposit to enforce the liability of the principal on the deposit. The agreement shall include the address at which the principal may be served with notices, papers, and other documents under this chapter.

(d) The officer may prescribe terms and conditions to implement this section.

(e) This section may not be utilized after January 1, 1999, for deposits with the Secretary of State. Any principal who made a deposit with the Secretary of State pursuant to this section prior to January 1, 1999, may continue to utilize that deposit in lieu of a bond pursuant to this section and the statute that prescribes a bond; however, the deposit shall not be renewable pursuant to this section.

SEC. 12. Section 1260.250 of the Code of Civil Procedure is amended to read:

1260.250. (a) In a county where both the auditor and the tax collector are elected officials, the court shall by order give the auditor or tax collector the legal description of the property sought to be taken and direct the auditor or tax collector to certify to the court the information required by subdivision (c), and the auditor or tax collector shall promptly certify the required information to the court. In all other counties, the court shall by order give the tax collector the legal description of the property sought to be taken and direct the tax collector to certify to the court the information required by subdivision (c), and the tax collector shall promptly certify the required information to the court.

(b) The court order shall be made on or before the earliest of the following dates:

(1) The date the court makes an order for possession.

(2) The date set for trial.

(3) The date of entry of judgment.

(c) The court order shall require certification of the following information:

(1) The current assessed value of the property together with its assessed identification number.

(2) All unpaid taxes on the property, and any penalties and costs that have accrued thereon while on the secured roll, levied for prior tax years that constitute a lien on the property.

(3) All unpaid taxes on the property, and any penalties and costs that have accrued thereon while on the secured roll, levied for the current tax year that constitute a lien on the property prorated to, but not including, the date of apportionment determined pursuant to Section 5082 of the Revenue and Taxation Code or the date of trial, whichever is earlier. If the amount of the current taxes is not ascertainable at the time of proration, the amount shall be estimated and computed based on the assessed value for the current assessment year and the tax rate levied on the property for the immediately prior tax year.

(4) The actual or estimated amount of taxes on the property that are or will become a lien on the property in the next succeeding tax year prorated to, but not including, the date of apportionment determined pursuant to Section 5082 of the Revenue and Taxation Code or the date of trial, whichever is earlier. Any estimated amount of taxes shall be computed based on the assessed value of the property for the current assessment year and the tax rate levied on the property for the current tax year.

(5) The amount of the taxes, penalties, and costs allocable to one day of the current tax year, and where applicable, the amount allocable to one day of the next succeeding tax year, hereinafter referred to as the ‘‘daily prorate.’’

(6) The total of paragraphs (2), (3), and (4).

(d) If the property sought to be taken does not have a separate valuation on the assessment roll, the information required by this section shall be for the larger parcel of which the property is a part.

(e) The court, as part of the judgment, shall separately state the amount certified pursuant to this section and order that the amount be paid to the tax collector from the award. If the amount so certified is prorated to the date of trial, the order shall include, in addition to the amount so certified, an amount equal to the applicable daily prorate multiplied by the number of days commencing on the date of trial and ending on and including the day before the date of apportionment determined pursuant to Section 5082 of the Revenue and Taxation Code.

(f) Notwithstanding any other provision of this section, if the board of supervisors provides the procedure set forth in Section 5087 of the Revenue and Taxation Code, the court shall make no award of taxes in the judgment.

SEC. 13. Section 2025 of the Code of Civil Procedure is amended to read:

2025. (a) Any party may obtain discovery within the scope delimited by Section 2017, and subject to the restrictions set forth in Section 2019, by taking in California the oral deposition of any person, including any party to the action. The person deposed may be a natural person, an organization such as a public or private corporation, a partnership, an association, or a governmental agency.

(b) Subject to subdivisions (f) and (t), an oral deposition may be taken as follows:

(1) The defendant may serve a deposition notice without leave of court at any time after that defendant has been served or has appeared in the action, whichever occurs first.

(2) The plaintiff may serve a deposition notice without leave of court on any date that is 20 days after the service of the summons on, or appearance by, any defendant. However, on motion with or without notice, the court, for good cause shown, may grant to a plaintiff leave to serve a deposition notice on an earlier date.

(c) A party desiring to take the oral deposition of any person shall give notice in writing in the manner set forth in subdivision (d). However, where under subdivision (d) of Section 2020 only the production by a nonparty of business records for copying is desired, a copy of the deposition subpoena shall serve as the notice of deposition. The notice of deposition shall be given to every other party who has appeared in the action. The deposition notice, or the accompanying proof of service, shall list all the parties or attorneys for parties on whom it is served.

Where, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to

produce personal records of a consumer, the subpoenaing party shall serve on that consumer (1) a notice of the deposition, (2) the notice of privacy rights specified in subdivision (e) of Section 1985.3 and in Section 1985.6, and (3) a copy of the deposition subpoena.

(d) The deposition notice shall state all of the following:

(1) The address where the deposition will be taken.

(2) The date of the deposition, selected under subdivision (f), and the time it will commence.

(3) The name of each deponent, and the address and telephone number, if known, of any deponent who is not a party to the action. If the name of the deponent is not known, the deposition notice shall set forth instead a general description sufficient to identify the person or particular class to which the person belongs.

(4) The specification with reasonable particularity of any materials or category of materials to be produced by the deponent.

(5) Any intention to record the testimony by audiotape or videotape, in addition to recording the testimony by the stenographic method as required by paragraph (1) of subdivision (*l*) and any intention to record the testimony by stenographic method, through the instant visual display of the testimony. In the latter event, a copy of the deposition notice shall also be given to the deposition officer. Any offer to provide the instant visual display of the testimony or to provide rough draft transcripts to any party which is accepted prior to, or offered at, the deposition shall also be made by the deposition officer at the deposition to all parties in attendance.

(6) Any intention to reserve the right to use at trial a videotape deposition of a treating or consulting physician or of any expert witness under paragraph (4) of subdivision (u). In this event, the operator of the videotape camera shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties.

If the deponent named is not a natural person, the deposition notice shall describe with reasonable particularity the matters on which examination is requested. In that event, the deponent shall designate and produce at the deposition those of its officers, directors, managing agents, employees, or agents who are most qualified to testify on its behalf as to those matters to the extent of any information known or reasonably available to the deponent. A deposition subpoena shall advise a nonparty deponent of its duty to make this designation, and shall describe with reasonable particularity the matters on which examination is requested.

If the attendance of the deponent is to be compelled by service of a deposition subpoena under Section 2020, an identical copy of that subpoena shall be served with the deposition notice.

(e) (1) The deposition of a natural person, whether or not a party to the action, shall be taken at a place that is, at the option of the party

giving notice of the deposition, either within 75 miles of the deponent's residence, or within the county where the action is pending and within 150 miles of the deponent's residence, unless the court orders otherwise under paragraph (3).

(2) The deposition of an organization that is a party to the action shall be taken at a place that is, at the option of the party giving notice of the deposition, either within 75 miles of the organization's principal executive or business office in California, or within the county where the action is pending and within 150 miles of that office. The deposition of any other organization shall be taken within 75 miles of the organization's principal executive or business office in California, unless the organization consents to a more distant place. If the organization has not designated a principal executive or business office in California, the deposition shall be taken at a place that is, at the option of the party giving notice of the deposition, either within the county where the action is pending, or within 75 miles of any executive or business office in California of the organization.

(3) A party desiring to take the deposition of a natural person who is a party to the action or an officer, director, managing agent, or employee of a party may make a motion for an order that the deponent attend for deposition at a place that is more distant than that permitted under paragraph (1). This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion.

In exercising its discretion to grant or deny this motion, the court shall take into consideration any factor tending to show whether the interests of justice will be served by requiring the deponent's attendance at that more distant place, including, but not limited to, the following:

(A) Whether the moving party selected the forum.

(B) Whether the deponent will be present to testify at the trial of the action.

(C) The convenience of the deponent.

(D) The feasibility of conducting the deposition by written questions under Section 2028, or of using a discovery method other than a deposition.

(E) The number of depositions sought to be taken at a place more distant than that permitted under paragraph (1).

(F) The expense to the parties of requiring the deposition to be taken within the distance permitted under paragraph (1).

(G) The whereabouts of the deponent at the time for which the deposition is scheduled.

The order may be conditioned on the advancement by the moving party of the reasonable expenses and costs to the deponent for travel to the place of deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to increase travel limits for party deponent, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(f) An oral deposition shall be scheduled for a date at least 10 days after service of the deposition notice. If, as defined in subdivision (a) of Section 1985.3, the party giving notice of the deposition is a subpoenaing party, and the deponent is a witness commanded by a deposition subpoena to produce personal records of a consumer, the deposition shall be scheduled for a date at least 20 days after issuance of that subpoena. However, in unlawful detainer actions, an oral deposition shall be scheduled for a date at least five days after service of the deposition notice, but not later than five days before trial.

On motion or ex parte application of any party or deponent, for good cause shown, the court may shorten or extend the time for scheduling a deposition, or may stay its taking until the determination of a motion for a protective order under subdivision (i).

(g) Any party served with a deposition notice that does not comply with subdivisions (b) to (f), inclusive, waives any error or irregularity unless that party promptly serves a written objection specifying that error or irregularity at least three calendar days prior to the date for which the deposition is scheduled, on the party seeking to take the deposition and any other attorney or party on whom the deposition notice was served. If an objection is made three calendar days before the deposition date, the objecting party shall make personal service of that objection pursuant to Section 1011 on the party who gave notice of the deposition. Any deposition taken after the service of a written objection shall not be used against the objecting party under subdivision (u) if the party did not attend the deposition and if the court determines that the objection was a valid one.

In addition to serving this written objection, a party may also move for an order staying the taking of the deposition and quashing the deposition notice. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of any issue presented by the motion. The taking of the deposition is stayed pending the determination of this motion.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to quash a deposition notice, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(h) (1) The service of a deposition notice under subdivision (c) is effective to require any deponent who is a party to the action or

an officer, director, managing agent, or employee of a party to attend and to testify, as well as to produce any document or tangible thing for inspection and copying.

(2) The attendance and testimony of any other deponent, as well as the production by the deponent of any document or tangible thing for inspection and copying, requires the service on the deponent of a deposition subpoena under Section 2020.

(i) Before, during, or after a deposition, any party, any deponent, or any other affected natural person or organization may promptly move for a protective order. The motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion.

The court, for good cause shown, may make any order that justice requires to protect any party, deponent, or other natural person or organization from unwarranted annoyance, embarrassment, or oppression, or undue burden and expense. This protective order may include, but is not limited to, one or more of the following directions:

(1) That the deposition not be taken at all.

(2) That the deposition be taken at a different time.

(3) That a videotape deposition of a treating or consulting physician or of any expert witness, intended for possible use at trial under paragraph (4) of subdivision (u), be postponed until the moving party has had an adequate opportunity to prepare, by discovery deposition of the deponent, or other means, for cross-examination.

(4) That the deposition be taken at a place other than that specified in the deposition notice, if it is within a distance permitted by subdivision (e).

(5) That the deposition be taken only on certain specified terms and conditions.

(6) That the deponent’s testimony be taken by written, instead of oral, examination.

(7) That the method of discovery be interrogatories to a party instead of an oral deposition.

(8) That the testimony be recorded in a manner different from that specified in the deposition notice.

(9) That certain matters not be inquired into.

(10) That the scope of the examination be limited to certain matters.

(11) That all or certain of the writings or tangible things designated in the deposition notice not be produced, inspected, or copied.

(12) That designated persons, other than the parties to the action and their officers and counsel, be excluded from attending the deposition.

(13) That a trade secret or other confidential research, development, or commercial information not be disclosed or be disclosed only to specified persons or only in a specified way.

(14) That the parties simultaneously file specified documents enclosed in sealed envelopes to be opened as directed by the court.

(15) That the deposition be sealed and thereafter opened only on order of the court.

If the motion for a protective order is denied in whole or in part, the court may order that the deponent provide or permit the discovery against which protection was sought on those terms and conditions that are just.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for a protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(j) (1) If the party giving notice of a deposition fails to attend or proceed with it, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, and in favor of any party attending in person or by attorney, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If a deponent does not appear for a deposition because the party giving notice of the deposition failed to serve a required deposition subpoena, the court shall impose a monetary sanction under Section 2023 against that party, or the attorney for that party, or both, in favor of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, unless the court finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent on whom a deposition subpoena has been served fails to attend a deposition or refuses to be sworn as a witness, the court may impose on the deponent the sanctions described in subdivision (h) of Section 2020.

(3) If, after service of a deposition notice, a party to the action or an officer, director, managing agent, or employee of a party, or a person designated by an organization that is a party under subdivision (d), without having served a valid objection under subdivision (g), fails to appear for examination, or to proceed with it, or to produce for inspection any document or tangible thing described in the deposition notice, the party giving the notice may move for an order compelling the deponent's attendance and testimony, and the production for inspection of any document or tangible thing described in the deposition notice. This motion (A)

shall set forth specific facts showing good cause justifying the production for inspection of any document or tangible thing described in the deposition notice, and (B) shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by it or, when the deponent fails to attend the deposition and produce the documents or things described in the deposition notice, by a declaration stating that the petitioner has contacted the deponent to inquire about the nonappearance. If this motion is granted, the court shall also impose a monetary sanction under Section 2023 against the deponent or the party with whom the deponent is affiliated, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust. On motion of any other party who, in person or by attorney, attended at the time and place specified in the deposition notice in the expectation that the deponent's testimony would be taken, the court shall also impose a monetary sanction under Section 2023, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If that party or party-affiliated deponent then fails to obey an order compelling attendance, testimony, and production, the court may make those orders that are just, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023 against that party deponent or against the party with whom the deponent is affiliated. In lieu of, or in addition to, this sanction, the court may impose a monetary sanction under Section 2023 against that deponent or against the party with whom that party deponent is affiliated, and in favor of any party who, in person or by attorney, attended in the expectation that the deponent's testimony would be taken pursuant to that order.

(k) Except as provided in paragraph (3) of subdivision (d) of Section 2020, the deposition shall be conducted under the supervision of an officer who is authorized to administer an oath. This officer shall not be financially interested in the action and shall not be a relative or employee of any attorney of any of the parties, or of any of the parties. Any objection to the qualifications of the deposition officer is waived unless made before the deposition begins or as soon thereafter as the ground for that objection becomes known or could be discovered by reasonable diligence.

(*l*) (1) The deposition officer shall put the deponent under oath. Unless the parties agree or the court orders otherwise, the testimony, as well as any stated objections, shall be taken stenographically. The party noticing the deposition may also record the testimony by audiotape or videotape if the notice of deposition stated an intention also to record the testimony by either of those methods, or if all the parties agree that the testimony may also be recorded by either of

those methods. Any other party, at that party's expense, may make a simultaneous audiotape or videotape record of the deposition, provided that other party promptly, and in no event less than three calendar days before the date for which the deposition is scheduled, serves a written notice of this intention to audiotape or videotape the deposition testimony on the party or attorney who noticed the deposition, on all other parties or attorneys on whom the deposition notice was served under subdivision (c), and on any deponent whose attendance is being compelled by a deposition subpoena under Section 2020. If this notice is given three calendar days before the deposition date, it shall be made by personal service under Section 1011. Examination and cross-examination of the deponent shall proceed as permitted at trial under the provisions of the Evidence Code.

(2) If the deposition is being recorded by means of audiotape or videotape, the following procedure shall be observed:

(A) The area used for recording the deponent's oral testimony shall be suitably large, adequately lighted, and reasonably quiet.

(B) The operator of the recording equipment shall be competent to set up, operate, and monitor the equipment in the manner prescribed in this subdivision. The operator may be an employee of the attorney taking the deposition unless the operator is also the deposition officer. However, if a videotape of deposition testimony is to be used under paragraph (4) of subdivision (u), the operator of the recording equipment shall be a person who is authorized to administer an oath, and shall not be financially interested in the action or be a relative or employee of any attorney of any of the parties, unless all parties attending the deposition agree on the record to waive these qualifications and restrictions.

(C) The operator shall not distort the appearance or the demeanor of participants in the deposition by the use of camera or sound recording techniques.

(D) The deposition shall begin with an oral or written statement on camera or on the audiotape that includes the operator's name and business address, the name and business address of the operator's employer, the date, time, and place of the deposition, the caption of the case, the name of the deponent, a specification of the party on whose behalf the deposition is being taken, and any stipulations by the parties.

(E) Counsel for the parties shall identify themselves on camera or on the audiotape.

(F) The oath shall be administered to the deponent on camera or on the audiotape.

(G) If the length of a deposition requires the use of more than one unit of tape, the end of each unit and the beginning of each succeeding unit shall be announced on camera or on the audiotape.

(H) At the conclusion of a deposition, a statement shall be made on camera or on the audiotape that the deposition is ended and shall set forth any stipulations made by counsel concerning the custody of the audiotape or videotape recording and the exhibits, or concerning other pertinent matters.

(I) A party intending to offer an audiotaped or videotaped recording of a deposition in evidence under subdivision (u) shall notify the court and all parties in writing of that intent and of the parts of the deposition to be offered within sufficient time for objections to be made and ruled on by the judge to whom the case is assigned for trial or hearing, and for any editing of the tape. Objections to all or part of the deposition shall be made in writing. The court may permit further designations of testimony and objections as justice may require. With respect to those portions of an audiotaped or videotaped deposition that are not designated by any party or that are ruled to be objectionable, the court may order that the party offering the recording of the deposition at the trial or hearing suppress those portions, or that an edited version of the deposition tape be prepared for use at the trial or hearing. The original audiotape or videotape of the deposition shall be preserved unaltered. If no stenographic record of the deposition testimony has previously been made, the party offering a videotape or an audiotape recording of that testimony under subdivision (u) shall accompany that offer with a stenographic transcript prepared from that recording.

(3) In lieu of participating in the oral examination, parties may transmit written questions in a sealed envelope to the party taking the deposition for delivery to the deposition officer, who shall unseal the envelope and propound them to the deponent after the oral examination has been completed.

(m) (1) The protection of information from discovery on the ground that it is privileged or that it is a protected work product under Section 2018 is waived unless a specific objection to its disclosure is timely made during the deposition.

(2) Errors and irregularities of any kind occurring at the oral examination that might be cured if promptly presented are waived unless a specific objection to them is timely made during the deposition. These errors and irregularities include, but are not limited to, those relating to the manner of taking the deposition, to the oath or affirmation administered, to the conduct of a party, attorney, deponent, or deposition officer, or to the form of any question or answer. Unless the objecting party demands that the taking of the deposition be suspended to permit a motion for a protective order under subdivision (n), the deposition shall proceed subject to the objection.

(3) Objections to the competency of the deponent, or to the relevancy, materiality, or admissibility at trial of the testimony or of

the materials produced are unnecessary and are not waived by failure to make them before or during the deposition.

(4) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking that answer or production may adjourn the deposition or complete the examination on other matters without waiving the right at a later time to move for an order compelling that answer or production under subdivision (o).

(n) The deposition officer shall not suspend the taking of testimony without stipulation of the party conducting the deposition and the deponent unless any party attending the deposition or the deponent demands the taking of testimony be suspended to enable that party or deponent to move for a protective order on the ground that the examination is being conducted in bad faith or in a manner that unreasonably annoys, embarrasses, or oppresses that deponent or party. This motion shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. The court, for good cause shown, may terminate the examination or may limit the scope and manner of taking the deposition as provided in subdivision (i). If the order terminates the examination, the deposition shall not thereafter be resumed, except on order of the court.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion for this protective order, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(o) If a deponent fails to answer any question or to produce any document or tangible thing under the deponent's control that is specified in the deposition notice or a deposition subpoena, the party seeking discovery may move the court for an order compelling that answer or production. This motion shall be made no later than 60 days after the completion of the record of the deposition, and shall be accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion. Notice of this motion shall be given to all parties, and to the deponent either orally at the examination, or by subsequent service in writing. If the notice of the motion is given orally, the deposition officer shall direct the deponent to attend a session of the court at the time specified in the notice. Not less than five days prior to the hearing on this motion, the moving party shall lodge with the court a certified copy of any parts of the stenographic transcript of the deposition that are relevant to the motion. If a deposition is recorded by audiotape or videotape, the moving party is required to lodge a certified copy of a transcript of any parts of the deposition that are relevant to the motion. If the court determines that the answer

or production sought is subject to discovery, it shall order that the answer be given or the production be made on the resumption of the deposition.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to compel answer or production, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

If a deponent fails to obey an order entered under this subdivision, the failure may be considered a contempt of court. In addition, if the disobedient deponent is a party to the action or an officer, director, managing agent, or employee of a party, the court may make those orders that are just against the disobedient party, or against the party with whom the disobedient deponent is affiliated, including the imposition of an issue sanction, an evidence sanction, or a terminating sanction under Section 2023. In lieu of, or in addition to, this sanction, the court may impose a monetary sanction under Section 2023 against that party deponent or against any party with whom the deponent is affiliated.

(p) Unless the parties agree otherwise, the testimony at any deposition recorded by stenographic means shall be transcribed. The party noticing the deposition shall bear the cost of that transcription, unless the court, on motion and for good cause shown, orders that the cost be borne or shared by another party. Any other party, at that party's expense, may obtain a copy of the transcript. If the deposition officer receives a request from a party for an original or a copy of the deposition transcript, or any portion thereof, and the document will be available to that party prior to the time the original or copy would be available to any other party, the deposition officer shall immediately notify all other parties attending the deposition of the request, and shall, upon request by any party other than the party making the original request, make that copy of the full or partial deposition transcript available to all parties at the same time. Stenographic notes of depositions shall be retained by the reporter for a period of not less than eight years from the date of the deposition, where no transcript is produced, and not less than one year from the date on which the transcript is produced. Those notes may be either on paper or electronic media, as long as it allows for satisfactory production of a transcript at any time during the periods specified. At the request of any other party to the action, including a party who did not attend the taking of the deposition testimony, any party who records or causes the recording of that testimony by means of audiotape or videotape shall promptly (1) permit that other party to hear the audiotape or to view the videotape, and (2) furnish a copy of the audiotape or videotape to that other party on receipt of payment of the reasonable cost of making that copy of the tape.

If the testimony at the deposition is recorded both stenographically, and by audiotape or videotape, the stenographic transcript is the official record of that testimony for the purpose of the trial and any subsequent hearing or appeal.

(q) (1) If the deposition testimony is stenographically recorded, the deposition officer shall send written notice to the deponent and to all parties attending the deposition when the original transcript of the testimony for each session of the deposition is available for reading, correcting, and signing, unless the deponent and the attending parties agree on the record that the reading, correcting, and signing of the transcript of the testimony will be waived or that the reading, correcting, and signing of a transcript of the testimony will take place after the entire deposition has been concluded or at some other specific time. For 30 days following each such notice, unless the attending parties and the deponent agree on the record or otherwise in writing to a longer or shorter time period, the deponent may change the form or the substance of the answer to a question, and may either approve the transcript of the deposition by signing it, or refuse to approve the transcript by not signing it.

Alternatively, within this same period, the deponent may change the form or the substance of the answer to any question and may approve or refuse to approve the transcript by means of a letter to the deposition officer signed by the deponent which is mailed by certified or registered mail with return receipt requested. A copy of that letter shall be sent by first-class mail to all parties attending the deposition. For good cause shown, the court may shorten the 30-day period for making changes, approving, or refusing to approve the transcript.

The deposition officer shall indicate on the original of the transcript, if the deponent has not already done so at the office of the deposition officer, any action taken by the deponent and indicate on the original of the transcript, the deponent's approval of, or failure or refusal to approve, the transcript. The deposition officer shall also notify in writing the parties attending the deposition of any changes which the deponent timely made in person. If the deponent fails or refuses to approve the transcript within the allotted period, the deposition shall be given the same effect as though it had been approved, subject to any changes timely made by the deponent. However, on a seasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the failure or refusal to approve the transcript require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one

subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(2) If there is no stenographic transcription of the deposition, the deposition officer shall send written notice to the deponent and to all parties attending the deposition that the recording is available for review, unless the deponent and all these parties agree on the record to waive the hearing or viewing of an audiotape or videotape recording of the testimony. For 30 days following this notice the deponent, either in person or by signed letter to the deposition officer, may change the substance of the answer to any question.

The deposition officer shall set forth in a writing to accompany the recording any changes made by the deponent, as well as either the deponent's signature identifying the deposition as his or her own, or a statement of the deponent's failure to supply the signature, or to contact the officer within the allotted period. When a deponent fails to contact the officer within the allotted period, or expressly refuses by a signature to identify the deposition as his or her own, the deposition shall be given the same effect as though signed. However, on a reasonable motion to suppress the deposition, accompanied by a declaration stating facts showing a reasonable and good faith attempt at an informal resolution of each issue presented by the motion, the court may determine that the reasons given for the refusal to sign require rejection of the deposition in whole or in part.

The court shall impose a monetary sanction under Section 2023 against any party, person, or attorney who unsuccessfully makes or opposes a motion to suppress a deposition, unless it finds that the one subject to the sanction acted with substantial justification or that other circumstances make the imposition of the sanction unjust.

(r) (1) The deposition officer shall certify on the transcript of the deposition, or in a writing accompanying an audiotaped or videotaped deposition as described in paragraph (2) of subdivision (q), that the deponent was duly sworn and that the transcript or recording is a true record of the testimony given.

(2) When prepared as a rough draft transcript, the transcript of the deposition may not be certified and may not be used, cited, or transcribed as the certified transcript of the deposition proceedings. The rough draft transcript may not be cited or used in any way or at any time to rebut or contradict the certified transcript of deposition proceedings as provided by the deposition officer.

(s) (1) The certified transcript of a deposition shall not be filed with the court. Instead, the deposition officer shall securely seal that transcript in an envelope or package endorsed with the title of the action and marked: ''Deposition of (here insert name of deponent),'' and shall promptly transmit it to the attorney for the party who noticed the deposition. This attorney shall store it under conditions that will protect it against loss, destruction, or tampering.

The attorney to whom the transcript of a deposition is transmitted shall retain custody of it until six months after final disposition of the action. At that time, the transcript may be destroyed, unless the court, on motion of any party and for good cause shown, orders that the transcript be preserved for a longer period.

(2) An audiotape or videotape record of deposition testimony, including a certified tape made by an operator qualified under subparagraph (B) of paragraph (2) of subdivision (*l*), shall not be filed with the court. Instead, the operator shall retain custody of that record and shall store it under conditions that will protect it against loss, destruction, or tampering, and preserve as far as practicable the quality of the tape and the integrity of the testimony and images it contains.

At the request of any party to the action, including a party who did not attend the taking of the deposition testimony, or at the request of the deponent, that operator shall promptly (A) permit the one making the request to hear or to view the tape on receipt of payment of a reasonable charge for providing the facilities for hearing or viewing the tape, and (B) furnish a copy of the audiotape or the videotape recording to the one making the request on receipt of payment of the reasonable cost of making that copy of the tape.

The attorney or operator who has custody of an audiotape or videotape record of deposition testimony shall retain custody of it until six months after final disposition of the action. At that time, the audiotape or videotape may be destroyed or erased, unless the court, on motion of any party and for good cause shown, orders that the tape be preserved for a longer period.

(t) Once any party has taken the deposition of any natural person, including that of a party to the action, neither the party who gave, nor any other party who has been served with a deposition notice pursuant to subdivision (c) may take a subsequent deposition of that deponent. However, for good cause shown, the court may grant leave to take a subsequent deposition, and the parties, with the consent of any deponent who is not a party, may stipulate that a subsequent deposition be taken. This subdivision does not preclude taking one subsequent deposition of a natural person who has previously been examined (1) as a result of that person's designation to testify on behalf of an organization under subdivision (d), or (2), pursuant to a court order under Section 485.230, for the limited purpose of discovering pursuant to Section 485.230 the identity, location, and value of property in which the deponent has an interest. This subdivision does not authorize the taking of more than one subsequent deposition for the limited purpose of Section 485.230.

(u) At the trial or any other hearing in the action, any part or all of a deposition may be used against any party who was present or represented at the taking of the deposition, or who had due notice of the deposition and did not serve a valid objection under

subdivision (g), so far as admissible under the rules of evidence applied as though the deponent were then present and testifying as a witness, in accordance with the following provisions:

(1) Any party may use a deposition for the purpose of contradicting or impeaching the testimony of the deponent as a witness, or for any other purpose permitted by the Evidence Code.

(2) An adverse party may use for any purpose, a deposition of a party to the action, or of anyone who at the time of taking the deposition was an officer, director, managing agent, employee, agent, or designee under subdivision (d) of a party. It is not ground for objection to the use of a deposition of a party under this paragraph by an adverse party that the deponent is available to testify, has testified, or will testify at the trial or other hearing.

(3) Any party may use for any purpose the deposition of any person or organization, including that of any party to the action, if the court finds any of the following:

(A) The deponent resides more than 150 miles from the place of the trial or other hearing.

(B) The deponent, without the procurement or wrongdoing of the proponent of the deposition for the purpose of preventing testimony in open court, is (i) exempted or precluded on the ground of privilege from testifying concerning the matter to which the deponent's testimony is relevant, (ii) disqualified from testifying, (iii) dead or unable to attend or testify because of existing physical or mental illness or infirmity, (iv) absent from the trial or other hearing and the court is unable to compel the deponent's attendance by its process, or (v) absent from the trial or other hearing and the proponent of the deposition has exercised reasonable diligence but has been unable to procure the deponent's attendance by the court's process.

(C) Exceptional circumstances exist that make it desirable to allow the use of any deposition in the interests of justice and with due regard to the importance of presenting the testimony of witnesses orally in open court.

(4) Any party may use a videotape deposition of a treating or consulting physician or of any expert witness even though the deponent is available to testify if the deposition notice under subdivision (d) reserved the right to use the deposition at trial, and if that party has complied with subparagraph (I) of paragraph (2) of subdivision (*l*).

(5) Subject to the requirements of this section, a party may offer in evidence all or any part of a deposition, and if the party introduces only part of the deposition, any other party may introduce any other parts that are relevant to the parts introduced.

(6) Substitution of parties does not affect the right to use depositions previously taken.

(7) When an action has been brought in any court of the United States or of any state, and another action involving the same subject matter is subsequently brought between the same parties or their representatives or successors in interest, all depositions lawfully taken and duly filed in the initial action may be used in the subsequent action as if originally taken in that subsequent action. A deposition previously taken may also be used as permitted by the Evidence Code.

SEC. 14. Section 68511.3 of the Government Code is amended to read:

68511.3. (a) The Judicial Council shall formulate and adopt uniform forms and rules of court for litigants proceeding in forma pauperis. These rules shall provide for all of the following:

(1) Standard procedures for considering and determining applications for permission to proceed in forma pauperis, including, in the event of a denial of such permission, a written statement detailing the reasons for denial and an evidentiary hearing where there is a substantial evidentiary conflict.

(2) Standard procedures to toll relevant time limitations when a pleading or other paper accompanied by such an application is timely lodged with the court and delay is caused due to the processing of the application to proceed in forma pauperis.

(3) Proceeding in forma pauperis at every stage of the proceedings at both the appellate and trial levels of the court system.

(4) The confidentiality of the financial information provided to the court by these litigants.

(5) That the court may authorize the clerk of the court, county financial officer, or other appropriate county officer to make reasonable efforts to verify the litigant's financial condition without compromising the confidentiality of the application.

(6) That permission to proceed in forma pauperis be granted to all of the following:

(A) Litigants who are receiving benefits pursuant to the Supplemental Security Income (SSI) and State Supplemental Payments (SSP) programs (Sections 12200 to 12205, inclusive, of the Welfare and Institutions Code), the California Work Opportunity and Responsibility to Kids Act (CalWORKs) program (Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code), the Food Stamp program (7 U.S.C. Sec. 2011 et seq.), or Section 17000 of the Welfare and Institutions Code.

(B) Litigants whose monthly income is 125 percent or less of the current monthly poverty line annually established by the Secretary of Health and Human Services pursuant to the Omnibus Budget Reconciliation Act of 1981, as amended.

(C) Other persons when in the court's discretion, this permission is appropriate because the litigant is unable to proceed without using

money which is necessary for the use of the litigant or the litigant's family to provide for the common necessaries of life.

(b) (1) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (A) of paragraph (6) of subdivision (a) shall declare under penalty of perjury that they are receiving such benefits and may voluntarily provide the court with their date of birth and social security number or their Medi-Cal identification number to permit the court to verify the applicant's receipt of public assistance. The court may require any applicant, except a defendant in an unlawful detainer action, who chooses not to disclose his or her social security number for verification purposes to attach to the application documentation of benefits to support the claim and all other financial information on a form promulgated by the Judicial Council for this purpose.

(2) Litigants who apply for permission to proceed in forma pauperis pursuant to subparagraph (B) or (C) of paragraph (6) of subdivision (a) shall file a financial statement under oath on a form promulgated by, and pursuant to rules adopted by, the Judicial Council.

(c) The forms and rules adopted by the Judicial Council shall provide for the disclosure of the following information about the litigant:

(1) Current street address.

(2) Date of birth.

(3) Occupation and employer.

(4) Monthly income and expenses.

(5) Address and value of any real property owned directly or beneficially.

(6) Personal property with a value that exceeds five hundred dollars ($500).

The information furnished by the litigant shall be used by the court in determining his or her ability to pay all or a portion of the fees and costs.

(d) At any time after the court has granted a litigant permission to proceed in forma pauperis and prior to final disposition of the case, the clerk of the court, county financial officer, or other appropriate county officer may notify the court of any changed financial circumstances which may enable the litigant to pay all or a portion of the fees and costs which had been waived. The court may authorize the clerk of the court, county financial officer, or other appropriate county officer to require the litigant to appear before and be examined by the person authorized to ascertain the validity of their indigent status. However, no litigant shall be required to appear more than once in any four-month period. A litigant proceeding in forma pauperis shall notify the court within five days of any settlement or monetary consideration received in settlement of this litigation and of any other change in financial circumstances that

affects the litigant's ability to pay court fees and costs. After the litigant either (1) appears before and is examined by the person authorized to ascertain the validity of his or her indigent status or (2) notifies the court of a change in financial circumstances, the court may then order the litigant to pay to the county such sum and in such manner as the court believes is compatible with the litigant's financial ability.

In any action or proceeding in which the litigant whose fees and costs have been waived would have been entitled to recover those fees and costs from another party to the action or proceeding had they been paid, the court may assess the amount of the waived fees and costs against the other party and order the other party to pay that sum to the county or to the clerk and serving and levying officers respectively, or the court may order the amount of the waived fees and costs added to the judgment and so identified by the clerk.

Execution may be issued on any order provided for in this subdivision in the same manner as on a judgment in a civil action. When an amount equal to the sum due and payable to the clerk has been collected upon the judgment, these amounts shall be remitted to the clerk within 30 days. Thereafter, when an amount equal to the sum due to the serving and levying officers has been collected upon the judgment, these amounts shall be due and payable to those officers and shall be remitted within 30 days. If the remittance is not received by the clerk within 30 days or there is a filing of a partial satisfaction of judgment in an amount at least equal to the fees and costs payable to the clerk or a satisfaction of judgment has been filed, notwithstanding any other provision of law, the court may issue an abstract of judgment, writ of execution, or both for recovery of those sums, plus the fees for issuance and execution and an additional fee for administering this section. The county board of supervisors shall establish a fee, not to exceed actual costs of administering this subdivision and in no case exceeding twenty-five dollars ($25), which shall be added to the writ of execution.

(e) Notwithstanding subdivision (a), a person who is sentenced to imprisonment in a state prison or confined in a county jail and, during the period of imprisonment or confinement, files a civil action or notice of appeal of a civil action in forma pauperis shall be required to pay the full amount of the filing fee to the extent provided in this subdivision.

(1) In addition to the form required by this section for filing in forma pauperis, an inmate shall file a copy of a statement of account for any sums due to the inmate for the six-month period immediately preceding the filing of the civil action or notice of appeal of a civil action. This copy shall be certified by the appropriate official of the Department of Corrections or a county jail.

(2) Upon filing the civil action or notice of appeal of a civil action, the court shall assess, and when funds exist, collect, as a partial

payment of any required court fees, an initial partial filing fee of 20 percent of the greater of one of the following:

(A) The average monthly deposits to the inmate's account.

(B) The average monthly balance in the inmate's account for the six-month period immediately preceding the filing of the civil action or notice of appeal.

(3) After payment of the initial partial filing fee, the inmate shall be required to make monthly payments of 20 percent of the preceding month's income credited to the inmate's account. The Department of Corrections shall forward payments from this account to the clerk of the court each time the amount in the account exceeds ten dollars ($10) until the filing fees are paid.

(4) In no event shall the filing fee collected pursuant to this subdivision exceed the amount of fees permitted by law for the commencement of a civil action or an appeal of a civil action.

(5) In no event shall an inmate be prohibited from bringing a civil action or appeal of a civil action solely because the inmate has no assets and no means to pay the initial partial filing fee.

SEC. 15. Section 45014 of the Public Resources Code is amended to read:

45014. (a) Upon the failure of any person to comply with any final order issued by a local enforcement agency or the board, the Attorney General, upon request of the board, shall petition the superior court for the issuance of a preliminary or permanent injunction, or both, as may be appropriate, restraining the person or persons from continuing to violate the order or complaint.

(b) Any attorney authorized to act on behalf of the local enforcement agency or the board may petition the superior court for injunctive relief to enforce this part, any term or condition in any solid waste facilities permit, or any standard adopted by the board or the local enforcement agency.

(c) In addition to the administrative imposition of civil penalties pursuant to this part and Article 6 (commencing with Section 42850) of Chapter 16 of Part 3, any attorney authorized to act on behalf of the local enforcement agency or the board may apply, to the clerk of the appropriate court in the county in which the civil penalty was imposed, for a judgment to collect the penalty. The application, which shall include a certified copy of the decision or order in the civil penalty action, constitutes a sufficient showing to warrant issuance of the judgment. The court clerk shall enter the judgment immediately in conformity with the application. The judgment so entered shall include the amount of the court filing fee which would have been due from an applicant who is not a public agency, and has the same force and effect as, and is subject to all the provisions of law relating to, a judgment in a civil action, and may be enforced in the same manner as any other judgment of the court in which it is entered, provided that the amount of the unpaid court filing fee shall

be paid to the court prior to satisfying any of the civil penalty amount. Thereafter, any civil penalty or judgment recovered shall be paid, to the maximum extent allowed by law, to the board or to the local enforcement agency, whichever is represented by the attorney who brought the action.

SEC. 16. Section 319.1 of the Welfare and Institutions Code is amended to read:

319.1. When the court finds a minor to be a person described by Section 300, and believes that the minor may need specialized mental health treatment while the minor is unable to reside in his or her natural home, the court shall notify the director of the county mental health department in the county where the minor resides. The county mental health department shall perform the duties required under Section 5694.7 for all those minors.

Nothing in this section shall restrict the provisions of emergency psychiatric services to those minors who are involved in dependency cases and have not yet reached the point of ajudication or disposition, nor shall it operate to restrict evaluations at an earlier stage of the proceedings or to restrict orders removing the minor from a detention facility for psychiatric treatment.

SEC. 17. Notwithstanding Section 17610 of the Government Code, if the Commission on State Mandates determines that this act contains costs mandated by the state, reimbursement to local agencies and school districts for those costs shall be made pursuant to Part 7 (commencing with Section 17500) of Division 4 of Title 2 of the Government Code. If the statewide cost of the claim for reimbursement does not exceed one million dollars ($1,000,000), reimbursement shall be made from the State Mandates Claims Fund.

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